



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; FCC 14-125]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waiver of iTRS Mandatory Minimum Standards

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission eliminates certain waivers of the telecommunications relay service (TRS) requirements that are no longer necessary, given advances in communications technology. At the same time, it extends certain existing waivers of mandatory minimum standards for specific providers for which the provision of certain TRS features is technologically infeasible at this time. The Commission also eliminates certain TRS requirements that are either not applicable or technically not feasible, while ensuring that TRS consumers continue to have access to communications services that are functionally equivalent to voice telephone services. Lastly, the Commission eliminates an annual reporting requirement for TRS providers. These actions provide regulatory clarity and reduce administrative burdens on both TRS providers and the Commission and ensure that the TRS mandatory minimum standards are applicable and technologically appropriate for each type of TRS.

DATES: Effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, except for terminations of waivers of §§ 64.604(a)(3)(vi)(B) and (C) of the Commission's rules, which shall become effective on October 21, 2014.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waiver of iTRS Mandatory Minimum Standards Report and Order and Order, (Order), document FCC

14-125, adopted on August 20, 2014, and released on August 22, 2014, in CG Docket No. 03-123. In document FCC 14-125, the Commission also seeks comment in an accompanying Further Notice of Proposed Rulemaking (FNPRM), which is summarized in a separate Federal Register publication. The full text of document FCC 14-125 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (800) 378-3160, fax: (202) 488-5563, or Internet: www.bcpweb.com. Document FCC 14-125 can also be downloaded in Word or Portable Document Format (PDF) at:

<http://www.fcc.gov/encyclopedia/disability-rights-office-headlines>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

FINAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document FCC 14-125 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act (PRA) of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

CONGRESSIONAL REVIEW ACT

The Commission will send a copy of document FCC 14-125 in a report to be sent to Congress and the Governmental Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

SYNOPSIS

1. Telecommunications Relay Services. Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the Commission to ensure that TRS is available to enable a person with a hearing or speech disability to communicate with other telephone users in a manner that is functionally equivalent to

voice communications service to the extent possible and in the most efficient manner. In accordance with this directive, the Commission's rules contain functional requirements, operations procedures and mandatory minimum standards to ensure the provision of functionally equivalent relay service. See 47 CFR 64.604. Many of these standards were adopted in the 1990s, at a time when there was only one form of TRS transmitted over the public switched telephone network (PSTN) – TTY-to-voice relay service. A text telephone, or TTY, is a text device that employs graphic communication in the transmission of coded signals through a wire or radio communication system. In a TTY-to-voice relay call, a communications assistant (CA) relays the call between parties by converting everything that the text caller with a hearing or speech disability types into voice for the hearing party and typing everything that the voice user responds back to the person with a disability. From 2000 to 2007, in light of advancing communication technologies and Internet-based innovations, the Commission recognized other forms of TRS as eligible for compensation from the Interstate Telecommunications Relay Service Fund (TRS Fund of Fund), including Captioned Telephone Service (CTS) and three forms of Internet-based TRS (iTRS): Video Relay Service (VRS), Internet Protocol Relay Service (IP Relay), and Internet Protocol Captioned Telephone Service (IP CTS). CTS permits people who can speak, but who have difficulty hearing over the telephone to simultaneously listen to the other party and read captions of what that party is saying. VRS allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users over a broadband Internet connection using video equipment and a CA who relays the conversation back and forth by signing what the voice telephone user says to the deaf or hard of hearing user and responding in voice to the voice telephone user. IP Relay permits people with hearing or speech disabilities to communicate in text using an Internet Protocol-enabled device via the Internet. With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the Internet, rather than through the PSTN. Today iTRS account for more than 90% of the total relay service minutes reimbursed from the Fund.

2. Waivers Granted for iTRS and CTS. The Commission's mandatory minimum standards are intended to ensure that the user experience when making TRS calls is comparable to a voice user's

experience when making conventional telephone calls. Over the years, however, the Commission has granted TRS providers waivers of certain TRS mandatory minimum standards that were deemed either technologically infeasible for or inapplicable to a particular form of TRS. The waivers granted for IP CTS and Captioned Telephone Service (CTS) have been issued for indefinite periods, while most waivers granted for VRS and IP Relay have been limited in duration. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Declaratory Ruling (IP CTS Declaratory Ruling); published at 72 FR 6960, February 14, 2007; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Waiver Order (2001 VRS Waiver Order); Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Clarification of WorldCom, Inc., CC Docket No. 98-67, Declaratory Ruling (IP Relay Declaratory Ruling); published at 67 FR 39863, June 11, 2002. Generally, the limited-duration waivers have been renewed periodically – in recent years on an annual basis. The Commission has conditioned many of the waivers on the filing of annual waiver reports in which providers are expected to detail their progress in achieving compliance with the underlying mandatory minimum standards.

3. TRS Waiver NPRM. On November 19, 2009, Hamilton Relay, Inc., AT&T, Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc. (Petitioners) filed a “Request for Extension and Clarification of Various iTRS Waivers” (Hamilton Joint Request), requesting that the Commission extend indefinitely all iTRS waivers of limited duration and provide clarification on what Petitioners claim are discrepancies in some of the waivers. In September 2013, the Commission released a Notice of Proposed Rulemaking to take an in-depth look at the merits of making permanent or eliminating the waivers addressed in the Hamilton Joint Request, as well as waivers granted for CTS. Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards, CG Docket No. 03-123, Notice of Proposed Rulemaking (TRS Waiver NPRM); published at 78 FR 63152, October 23,

2103. Specifically, the Commission sought public comment on the continuing need for, and technical feasibility and applicability of, the rules underlying each of these waivers as these rules apply to certain types of TRS.

4. Generally, the Commission sought input on the technological feasibility of compliance with, as well as the consumer need for, its waived mandatory minimum standards. The Commission divided the waivers addressed in its TRS Waiver NPRM into two categories, with the first group consisting of waivers for standards mandating the inclusion of features and functions available with voice telephone service in TRS, and the second group consisting of waivers for standards mandating the provision of specific communication services needed by people with speech or hearing disabilities. With respect to waivers that were limited in duration, the Commission sought comment on whether to exempt specified iTRS providers from the underlying waived mandatory minimum standards on a permanent basis, if they were determined to be inapplicable to the specified iTRS providers. Similarly, for waivers that were already of unlimited duration, the Commission sought comment on whether it should amend its rules to codify these as exemptions.

5. Mandatory Minimum Standards for Features and Functions of Voice Telephone Service. The first group of waived mandatory minimum standards relates to features and functions that are available with voice telephone service, including the types-of-calls requirement, equal access to interexchange carriers, pay-per-call (900) calls, three-way calling, and speed dialing. Each of these issues are addressed in turn.

6. Types-of-Calls Requirement. The Commission exempts iTRS providers from the types-of-calls requirement – to the extent that this standard requires providers to offer specific billing options traditionally offered for wireline voice services – so long as iTRS providers allow for long distance calls to be placed using calling cards or credit cards or do not charge for long distance service. Commission rules require TRS providers to be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. 47 CFR 64.604(a)(3)(ii). This requirement has been waived on a limited-duration basis for IP Relay

and VRS providers (but not for IP CTS providers) to the extent that it requires providers to offer specific billing options, including “operator-assisted” billing, such as collect, calling card, and third party billing, as well as sent-paid billing for long distance calls. As a condition of this waiver, the Commission, and subsequently the Consumer and Governmental Affairs Bureau, required that VRS and IP Relay providers allow users to place long distance calls using calling cards or without charging users for such calls.

7. The Commission concludes that compliance with this mandatory minimum standard is not necessary to provide functionally equivalent telephone services for iTRS users and would not be cost effective or efficient, because it would be more costly to providers to establish a billing mechanism in order to bill for these calls than to handle them without billing consumers, as is providers’ current practice. The types-of-calls requirement, adopted more than 20 years ago, was intended to ensure that certain billing options, including operator-assisted billing, that were available to voice telephone users in a PSTN-based environment would be similarly available to users of TTY-to-voice relay services. However, given the technological changes that have taken place over the past two decades, including the development of Internet-based forms of TRS, iTRS consumers do not need the same billing options that users who access relay services via the PSTN require. Accordingly, so long as iTRS providers allow consumers to use calling cards or credit cards or do not charge for long distance service, the Commission exempts all forms of iTRS from the types-of-calls requirement to the extent that the standard requires providers to offer the billing options traditionally offered for wireline voice services, and amends its rules accordingly.

8. Equal Access to Interexchange Carriers. The Commission exempts iTRS providers from the equal access to interexchange carriers requirement so long as they do not charge for long distance service. The Commission’s rules require TRS providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is provided to voice users. 47 CFR 64.604(b)(3). The Commission waived this requirement indefinitely for IP Relay and IP CTS, IP Relay Declaratory Ruling, IP CTS Declaratory Ruling, and on a limited-duration basis for VRS providers, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities;

E911 Requirements for IP-Enabled Service Providers, CG Docket No. 03-123, WC Docket No. 05-196, Waiver Order, (2012 TRS Waiver Order), contingent on iTRS providers offering long distance service without charge.

9. The Commission exempts iTRS providers from the equal access to interexchange carriers requirement so long as iTRS providers do not charge for long distance service. First, the equal access to interexchange carriers requirement is not necessary to provide functionally equivalent telephone services for iTRS users so long as iTRS providers do not charge for long distance service. Consumers derive no value from equal access to long distance carriers where they do not pay long-distance charges for iTRS calls and, consequently, have no interest in price shopping for a long-distance provider. Finally, it is not feasible for iTRS providers to implement networking and routing solutions to allow iTRS users to choose their carriers. For these reasons, the Commission concludes that the equal access to interexchange carriers requirement is not necessary for iTRS providers and therefore exempt iTRS providers that do not charge for long distance service from this requirement.

10. Pay-Per-Call (900) calls. The Commission exempts iTRS providers from the requirement for TRS providers to be capable of handling pay-per-call (i.e., 900-number) calls. Although the Commission's rules generally require TRS providers to be capable of handling pay-per-call calls, 47 CFR 64.604(a)(3)(iv), the Commission has previously waived this requirement indefinitely for IP CTS providers in the IP CTS Declaratory Ruling, and on a limited-duration basis for IP Relay and VRS providers because no billing mechanism has been available to handle the charges associated with pay-per-call calls. See Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Order on Reconsideration, (IP Relay Order on Reconsideration); published at 68 FR 50973, August 25, 20013; 2012 TRS Waiver Order.

11. The Commission exempts iTRS providers from handling pay-per-call calls. The Commission bases its decision on the fact that, as holds true for the types-of-calls and equal interexchange access requirements discussed above, the pay-per-call requirement presupposes a billing relationship, or the

ability to establish a billing relationship with iTRS users that providers presently do not have. The Commission is persuaded that requiring providers to establish such a billing relationship in order to provide pay-per-call calls would not be efficient given its high price tag and the very small demand for pay-per-call calls over TRS.

12. Three-Way Calling. The Commission terminates the indefinite waiver for IP CTS providers of the Commission's three-way calling requirement. The Commission's rules require TRS providers to provide three-way calling functionality, 47 CFR 64.604(a)(3)(vi)(3), which allows more than two parties to be on the telephone line at the same time with the CA. 47 CFR 64.601(a)(34). The Commission granted IP CTS providers an indefinite waiver of the three-way calling requirement when it approved IP CTS as a form of reimbursable TRS. Because the record demonstrates that IP CTS providers are capable of offering three-way calling functionality, the Commission hereby terminates the indefinite waiver of the Commission's three-way calling requirement previously granted to IP CTS providers.

13. Speed Dialing. The Commission terminates the indefinite waiver for IP CTS providers of the Commission's speed dialing requirement. The Commission's rules require TRS providers to provide speed dialing functionality, which allows a TRS user to use a "short-hand" name or number for the user's most frequently called telephone numbers. 47 CFR 64.604(a)(3)(vi)(2). This permits users to place calls without having to remember or locate the number they want to call. In the IP CTS Declaratory Ruling, the Commission granted IP CTS providers an indefinite waiver of the speed dialing requirement, contingent on the providers filing annual reports addressing the waiver.

14. The Commission now terminates the indefinite waiver for IP CTS providers of the Commission's speed dialing requirement. The Commission recognizes that IP CTS users may dial calls before being connected to a CA. Accordingly, IP CTS providers will be permitted to fulfill the speed dialing requirement contained in the Commission's rules by offering speed dialing capability through users' iTRS access technology, such as through one-touch dialing. As a result, IP CTS providers need not offer a feature that allows a TRS user to communicate the speed dial "short hand" name or number directly to the CA in the context of an IP CTS call to comply with this requirement.

15. Mandatory Minimum Standards to Provide Specific TRS Features. The second group of waivers relates to standards mandating the provision of specific communication services needed by people with disabilities, including voice carryover (VCO), hearing carryover (HCO), text to voice and voice to text, speech-to-speech (STS), ASCII/Baudot, and call release. Each of these are addressed in turn.

16. VCO and HCO. The Commission concludes that certain iTRS providers must provide some, but not all, forms of VCO and HCO. With VCO, a deaf or hard of hearing person who is able to speak communicates by voice directly to the other party to the call without intervention by the CA, and the CA relays the other party's voice response as text or in sign language. 47 CFR 64.601(a)(42) (defining VCO in the context of TTY-based relay service). With HCO, a person who has a speech disability, but who is able to hear, listens directly to the other party's voice without intervention by the CA, and in reply has the CA convert his or her typed or signed responses into voice. 47 CFR 64.601(a)(13) (defining HCO in the context of TTY-based relay service). There are multiple forms of both VCO and HCO. The Commission has granted fixed-duration waivers for VRS and IP Relay of all of the VCO and HCO mandatory minimum standards except two-line VCO and two-line HCO, based on providers' representations that Internet connections are unable to deliver voice and data over a single line with the necessary quality. See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket Nos. 90-571, 98-67, CG Docket No. 03-123, Report and Order, Order on Reconsideration (2004 TRS Report and Order); published at 69 FR 53346, September 1, 2004 (extending the one-line VCO and HCO waivers to VRS); see also IP Relay Declaratory Ruling (initially waiving the one-line VCO requirement for IP Relay for a period of one year); IP Relay Order on Reconsideration, (extending the one-line VCO waiver for five years and approving a waiver for one-line HCO for the same period, based on provider representations that the same technological obstacles exist for HCO as for VCO); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Americans with Disabilities Act of 1990, CC Docket No. 98-67, CG Docket No. 03-123, Second Report and Order, Order on Reconsideration, (2003 TRS Report and Order), published at

68 FR 50973, August 25, 2003 (extending the waiver for IP Relay and VRS providers to VCO-to-TTY, HCO-to-TTY, VCO-to-VCO, and HCO-to-HCO types of TRS calls). The Commission also previously granted indefinite waivers of all of the VCO and HCO mandatory minimum standards for IP CTS. See IP CTS Declaratory Ruling. Finally, the Commission previously granted an indefinite waiver of its mandatory minimum standards addressing HCO for CTS. See Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Declaratory Ruling (CTS Declaratory Ruling); published at 68 FR 55898, September 29, 2003.

17. One-line VCO and one-line HCO for VRS Providers. The Commission generally will allow the existing waivers for one-line VCO and one-line HCO for VRS providers to expire, although the Commission extends for one year a waiver of the requirement to offer one-line VCO and one-line HCO for VRS providers ASL Services Holdings, LLC (ASL Services) and Hancock, Jahn, Lee and Puckett, LLC d/b/a Communications Access Ability Group (CAAG), as discussed below.

18. Because commenters confirm that it is now technologically feasible for VRS providers to offer their users one-line VCO and one-line HCO capabilities, the Commission declines Petitioners' original request to exempt all VRS providers from these mandatory minimum standards, and terminates the current waiver for these required features **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. VRS providers may meet this obligation so long as they provide, upon a consumer's request for an equipment upgrade, at least one form of iTRS access technology that supports one-line VCO and one-line HCO. In other words, VRS providers need not support one-line VCO and one-line HCO in every version of the iTRS access technology that they distribute. Rather, VRS providers that provide at least one form of iTRS access technology that supports one-line VCO and one-line HCO will be in compliance with the mandatory minimum standard for one-line VCO and one-line HCO. This will allow the continued use of legacy VRS hardware for consumers who wish to keep their devices and who do not wish to use one-line versions of VCO or HCO.

19. In addition, the Commission waives the requirement for VRS providers to support one-line VCO and one-line HCO on VRS access technology distributed by another provider until the release of a

Public Notice by the Commission indicating that the SIP standards-development process for VRS has progressed to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible or the VRS access technology reference platform is implemented, whichever comes first.

20. VRS providers' limited ability to provide one-line VCO and one-line HCO using other providers' iTRS access technology due to the lack of standards for signaling the user's one-line VCO or HCO preferences will be resolved once the SIP standards-development process for VRS has progressed to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible or the VRS access technology reference platform is implemented. The Commission has ordered the development of a VRS access technology reference platform to "allow providers to ensure that any VRS access technology they develop or deploy is fully compliant with [the Commission's] interoperability and portability requirements." Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, (VRS Reform Order), published at 78 FR 40582, July 5, 2013, and at 78 FR 40407, July 5, 2013. Once the VRS access technology reference platform is tested and available for use, the Commission has explained that no VRS provider shall be compensated for minutes of use generated by the provider's VRS access technologies that are found to be non-interoperable with the reference platform. The Commission will release a Public Notice announcing the completion of the VRS access technology reference platform or the progression of the SIP standards development process to the point where support for one-line VCO and one-line HCO on VRS access technology distributed by another provider is possible, and the resulting termination of this waiver.

21. Although the Commission terminates the current, broadly-applicable waivers for one-line VCO and one-line HCO for VRS providers generally, the Commission extends for one year the waiver of these requirements for two VRS providers, ASL Services and CAAG. The Commission finds that neither ASL Services nor CAAG distribute hardware VRS access technology, that the current version of the

software that ASL Services and CAAG distribute does not support one-line HCO or one-line VCO, and that the next version of their respective software is expected to have this capability. While covered by the prior waivers, ASL Services and CAAG nonetheless have engaged in efforts to develop solutions to provide these TRS features, as evidenced by their commitment to meet these mandatory minimum standards within one year. Based on the Joint Providers' statement that ASL Services and CAAG will be technically capable of offering their users these capabilities within one year, the Commission concludes that a waiver of this limited duration is appropriate.

22. Two VRS providers, Sorenson and Purple ask that the Commission confirm that their specific implementation of one-line VCO and one-line HCO meets the mandatory minimum standards for one-line VCO and one-line HCO. Sorenson explains that because not all interpreter stations are capable of supporting one-line VCO and HCO, deaf-to-hearing single-line VCO and HCO calls are routed to interpreting stations capable of handling those calls. The Commission confirms that this method of handling one-line VCO and one-line HCO calls satisfies the mandatory minimum standards for one-line VCO and one-line HCO. The one-line VCO and one-line HCO routing process described by Sorenson routes the call based on technical capability to handle the call, not the skill of the CA. Accordingly, the Commission concludes that Sorenson's method of implementing one-line VCO and one-line HCO does not use skill-based routing and meets the mandatory minimum standards for the provision of one-line VCO and one-line HCO.

23. One-line VCO and one-line HCO for IP Relay Providers. The Commission exempts IP Relay providers from the requirement to offer one-line VCO and one-line HCO. The Commission is persuaded that the significant engineering changes necessary to support one-line HCO and one-line VCO would not be practical given the current level of demand for one-line VCO or HCO. The Commission also agrees that because alternatives, such as IP CTS, are available to take the place of one-line VCO and HCO used in conjunction with IP Relay, the significant time and resources that would be associated with creating these features over IP Relay is not justified. As a result, the Commission amends its rules to exempt IP Relay providers from the requirement to offer one-line VCO and one-line HCO.

24. VCO-to-TTY and HCO-to-TTY for VRS and IP Relay Providers. The Commission exempts VRS and IP Relay providers from the requirement to offer VCO-to-TTY and HCO-to-TTY. The Commission concludes that the provision of these features is not necessary to achieve functionally equivalent telephone service in the most efficient manner. This conclusion is reinforced by the low to non-existent demand for VCO-to-TTY and HCO-to-TTY using VRS and IP Relay reported by providers and the lack of consumer comment in support of applying these TRS features. Moreover, with so little interest by the user community in accessing these services and the impracticality of providing such calls, the Commission concludes that it would not be an efficient use of TRS resources to require VRS and IP Relay providers to develop a solution to enable them. Accordingly, the Commission amends its rules to exempt VRS and IP Relay providers from the requirement to offer VCO-to-TTY and HCO-to-TTY.

25. VCO-to-VCO and HCO-to-HCO for VRS and IP Relay Providers. In 2003, the Commission adopted, with little discussion, minimum standards mandating the provision of HCO-to-HCO and VCO-to-VCO calls by TRS providers. 2003 TRS Report and Order. Upon further analysis, the Commission eliminates the VCO-to-VCO and HCO-to-HCO requirements with respect to VRS and IP Relay providers. The Commission's rules define VCO as a form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. 47 CFR 64.601(a)(42) (emphasis added). Similarly, the Commission's rules define HCO as a form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. 47 CFR 64.601(a)(13) (emphasis added). Under these definitions, if two individuals were to use VCO or two individuals were to use HCO in the context of VRS or IP Relay services, then both would have to be able to speak as well as hear what the other party is saying, and a CA would not be necessary to provide functionally equivalent communication. For example, if individuals were to make a VCO-to-VCO call, they would be speaking directly to each other, and thus, the call would not require a CA. The same would hold true in an HCO-to-HCO call, in which both parties would be able to hear each other. Because HCO-to-HCO calls and VCO-to-VCO calls make use of CAs, but with the exception of CTS and IP CTS, do

not require CAs for functionally equivalent communication, the Commission finds they should not be compensable relay calls. Therefore, the Commission concludes that the handling of HCO-to-HCO and VCO-to-VCO calls by VRS and IP Relay providers, to the extent that such calls would result in point-to-point calls for which a CA is involved even though not needed, is not required and thus not compensable from the TRS Fund.

26. HCO for CTS and IP CTS Providers. As noted above, IP CTS providers already have an indefinite waiver of all of the HCO mandatory minimum standards. In addition, an indefinite waiver of the Commission's mandatory minimum standards addressing HCO already is in place for CTS providers. The Commission now exempts IP CTS and CTS providers from all of the HCO mandatory minimum standards, because it concludes that these TRS features are not applicable to captioned telephone-based relay services. CTS and IP CTS are a form of VCO in that they enable a person with hearing loss to speak directly to the other party to the call and to receive the text of the other party's response. HCO involves particular functionalities that do not apply to captioned telephone calls because HCO users rely on the CA to speak the text as typed, but do not rely on printed text as the HCO user can hear the called party's response. In contrast, when using CTS, a person with some residual hearing can speak to the other party and in return both listen to what the other party is saying and read text of what that party is saying. Accordingly, CTS is simply not able to handle HCO relay calls. For similar reasons, the Commission has also exempted providers that offer the Internet-based form of CTS from the requirement to provide HCO services. Because the defining characteristics of CTS and IP CTS make requirements for HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO inapplicable to CTS and IP CTS, the Commission exempts IP CTS and CTS providers from these mandatory minimum standards.

27. VCO for CTS and IP CTS Providers. The Commission has previously granted IP CTS providers indefinite waivers for all of the VCO mandatory minimum standards. The Commission has not previously waived any of the mandatory minimum standards relating to VCO for CTS providers. The Commission now concludes that waivers for the requirements to provide two-line VCO and VCO-to-TTY for IP CTS providers are unnecessary because IP CTS already is a form of VCO. However, because IP

CTS typically involves two lines, i.e., a telephone line and an IP line, the Commission does not find it efficient to require IP CTS providers to provide one-line VCO, and amends its rules to exempt them from that requirement. For the same reason that waivers of the VCO requirements are unnecessary for IP CTS providers – i.e., because CTS is a form of VCO – the Commission concludes that waivers for the provision of one-line VCO, two -line VCO, and VCO-to-TTY are unnecessary for CTS providers.

28. With respect to VCO-to-VCO, the Commission concludes that calls between two captioned telephone relay users are essentially a form of VCO-to-VCO and, accordingly, that a waiver of the VCO-to-VCO requirement is unnecessary for IP CTS and CTS providers. The Commission agrees that the use of multiple CAs currently is necessary to complete calls between two captioned telephone relay users. Specifically, each captioned telephone user must communicate through an individual CA, who re-voices what the other party says to that user. Similarly, the use of multiple CAs currently is necessary for captioned telephone-to-TTY calls and captioned telephone-to-VRS calls. Captioned telephone-to-TTY calls and captioned telephone-to-VRS calls require one CA to voice what the TTY or VRS user says to the captioned telephone user (which the captioned telephone user hears using residual hearing) and to type or sign what the captioned telephone relay user says to the TTY or VRS user, as well as another CA to re-voice what the TTY or VRS user says, through the TTY or VRS CA, to the captioned telephone user (which the captioned telephone user reads on his or her device). Because these calls currently cannot be completed without the use of multiple CAs, the Commission now amends its rules to make clear that compensation from the TRS Fund is allowed for such calls.

29. Text-to-Voice and Voice-to-Text. The Commission amends 47 CFR 64.604(a)(3)(v) to exempt VRS providers from providing text-to-voice and voice-to-text functionality and to exempt CTS and IP CTS providers from providing text-to-voice. VRS allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. A VRS user, through a CA, speaks to the called party using sign language and receives the called party's response in sign language. Accordingly, text-to-voice, in which the user types his or her message and has it read aloud by the CA, and voice-to-text, in which the user receives the called party's message as text, is

not compatible with VRS, a service based on sign language. As a result, the Commission exempts VRS providers from the requirement to provide text-to-voice and voice-to-text. In addition, for the reasons discussed above – i.e., that CTS and IP CTS are forms of VCO – the Commission finds that text-to-voice is inapplicable to CTS and IP CTS. By their nature, CTS and IP CTS allow the user to speak directly to the called party. Throughout a CTS and IP CTS call, the CA is completely transparent and does not participate in the call by voicing any part of the conversation. As a result, text-to-voice, which requires the CA to re-voice text typed by the TRS user, is incompatible with CTS and IP CTS. The Commission therefore exempts CTS and IP CTS providers from this standard.

30. STS. The Commission exempts VRS, IP Relay, IP CTS, and CTS providers from the STS requirement. The Commission's rules mandate the provision of STS by common carriers providing telephone voice transmission services. 47 CFR 64.603. The Commission has waived this requirement on a limited-duration basis for IP Relay providers and indefinitely for CTS, IP CTS, and VRS providers. IP Relay Declaratory Ruling; CTS Declaratory Ruling; IP CTS Declaratory Ruling; Telecommunications Services for Individuals with Hearing and Speech Disabilities; Recommended TRS Cost Recovery Guidelines; Request by Hamilton Telephone Company for Clarification and Temporary Waivers, CC Docket No. 98-67, Memorandum Opinion and Order (2001 TRS Order); published at 67 FR 4203, January 29, 2002.

31. STS is inapplicable to VRS, IP Relay, IP CTS, and CTS. Specifically, STS is purely speech-based, while IP Relay, CTS and IP CTS require the CA to provide communication in text, and, under the Commission's current rules, VRS requires the CA to provide communication in sign language. 47 CFR 64.601(a)(40). Because there are no speech capabilities in the relay leg of these text and video based forms of TRS, the Commission concludes that IP Relay, VRS, IP CTS, and CTS providers should be exempt from the requirement to offer STS, and amends its rules accordingly.

32. ASCII/Baudot. The Commission exempts iTRS, CTS and STS providers from the ASCII/Baudot requirement. The Commission's rules require TRS providers to support communications

using the American Standard Code for Information Interexchange (ASCII) and Baudot formats, at any speed generally in use. 47 CFR 64.601(a)(5) and (7). The Commission finds that the ASCII/Baudot requirement is not applicable in the context of iTRS, CTS and STS because iTRS, CTS and STS do not use ASCII or Baudot protocol for their relay transmissions. Thus, the Commission exempts iTRS, CTS and STS providers from the requirement to handle ASCII or Baudot protocol in relay calls and amends its rules accordingly.

33. Call Release. The Commission exempts iTRS and CTS providers from the call release functionality requirement. The Commission's rules require TRS providers to offer "call release," a feature that allows the CA to drop out – or be "released" – from the relay call after setting up a direct TTY-to-TTY connection between the caller and the called party. 47 CFR 64.601(a)(8), 47 CFR 64.604(a)(3)(vi). The Commission has waived this requirement indefinitely for CTS and IP CTS providers and on a limited-duration basis for VRS and IP Relay providers. See CTS Declaratory Ruling; IP CTS Declaratory Ruling; 2003 TRS Report and Order; 2012 TRS Waiver Order.

34. Call release is inapplicable to VRS and IP Relay because users of these services can already communicate directly via the Internet with other video and text users. In addition, the call release feature is not technically feasible or would raise numerous technological challenges for these services. Finally, call release is inapplicable to CTS and IP CTS because captioned telephone service, by its nature, requires the CA to remain on the line for the duration of the call, as the CA provides captioning of the called party's end of the conversation to ensure that the captioned telephone user does not miss any part of the called party's conversation. As a result, the CA would never be "released" from this type of call. Accordingly, the Commission amends the rules to exempt iTRS and CTS providers from the call release functionality requirement.

35. Annual Reports. Because the permanent exemptions granted herein are for standards that are either inapplicable in the context of iTRS or CTS or technologically infeasible for reasons that are unlikely to change any time in the near future, requiring providers to file annual reports for such

exemptions would be a waste of resources. Therefore, the Commission will no longer require providers to file annual reports for those mandatory minimum standards for which the Commission by this Order has adopted permanent exemptions. In addition, because the Commission expects the temporary waiver extensions granted herein to be of a limited duration, at this time, the Commission does not require the submission of annual reports to justify their continuance.

FINAL REGULATORY FLEXIBILITY CERTIFICATON

36. The Regulatory Flexibility Act of 1980, as amended (“RFA”), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that the rule will not have “a significant economic impact on a substantial number of small entities.” The RFA generally defines “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

37. After consideration of the comments received in response to the TRS Waiver NPRM, document FCC 14-125 amends the Commission’s rules to exempt TRS providers using the Internet to provide services such as VRS, IP Relay, and IP CTS as well as providers offering traditional CTS from certain operational, technical, and functional mandatory minimum standards applicable to the provision of TRS. Document FCC 14-125 adopts exemptions to these mandatory minimum standards for VRS, IP Relay, IP CTS, and CTS, either because it is not technologically feasible for providers to meet the requirement or the mandatory minimum standards are inapplicable to a particular form of TRS. Document FCC 14-125 incorporates these exemptions into the Commission’s rules (1) to obviate the need for annual waivers to be applied for and granted; and (2) to harmonize the treatment of all TRS providers to which these mandatory minimum standards do not apply, given the technology through which the service is provided. Specifically, document FCC 14-125:

- Exempts iTRS providers from mandatory minimum standards for certain “types-of-calls,” equal-access to interexchange carriers, pay-per-call, STS, ASCII/Baudot-compatible services, and call-release;
- Exempts CTS providers from mandatory minimum standards for STS, ASCII/Baudot-compatible services, and call-release;
- Exempts VRS providers from mandatory minimum standards requiring text-to-voice and voice-to-text features and exempts CTS and IP CTS providers from mandatory minimum standards requiring text-to-voice features;
- Exempts IP Relay providers from mandatory minimum standards requiring one-line VCO, VCO-to-text telephone (TTY), one-line HCO, and HCO-to-TTY;
- Exempts VRS providers from mandatory minimum standards requiring VCO-to-TTY and HCO-to-TTY.
- Concludes that VRS and IP Relay providers are not required to provide HCO-to-HCO and VCO-to-VCO services because HCO-to-HCO and VCO-to-VCO, with one exception for IP CTS and CTS, are not compensable relay calls;
- Exempts IP CTS and CTS providers from mandatory minimum standards requiring one-line HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO;
- Exempts IP CTS providers from mandatory minimum standards requiring one-line VCO; and
- Eliminates the requirement for iTRS and CTS providers to file annual reports for those mandatory minimum standards for which the Commission by this Order has adopted exemptions and for waivers adopted in this Order.

38. Document FCC 14-125 terminates or declines to extend some existing waivers for mandatory minimum standards. Specifically, document FCC 14-125:

- Terminates the existing waiver for IP CTS providers for the mandatory minimum standards requiring three-way calling and speed dialing functionalities;
- Terminates the existing waivers for VRS providers for mandatory minimum standards requiring one-line VCO and one-line HCO, but extends for one year the waiver for VRS providers ASL Services and CAAG and extends the waiver for providers' support of one-line VCO and one-line HCO on VRS access technology distributed by another provider;
- Determines that a waiver for CTS providers for the mandatory minimum standard requiring one-line VCO is unnecessary; and
- Determines that waivers for IP CTS and CTS providers for mandatory minimum standards requiring two-line VCO, VCO-to-TTY, and VCO-to-VCO are unnecessary.

39. In document FCC 14-125, the Commission adopts its proposal to codify exemptions to certain mandatory minimum standards and determines, as it concluded in the Initial Regulatory Flexibility Certification, that this codification will not place any financial burden on iTRS or CTS providers, including small businesses, because these entities will be relieved from the necessity to periodically file for new waivers of the TRS mandatory minimum standards and from incurring unnecessary expenses in research and development of features or services that are inapplicable to certain types of TRS services. Therefore, those rules as amended in document FCC 14-125 that exempt certain TRS mandatory minimum standards will not have a significant economic impact on any entities, including small businesses.

40. In addition, with respect to those waivers that are terminated or that are not extended, in the Initial Regulatory Flexibility Certification, the Commission concluded that the proposed rules would not impose a financial burden on entities, including small businesses, because the record showed that, as a result of technological advances, providers were generally providing the features that had been waived. No commenters opposed this proposal or the associated Initial Regulatory Flexibility Certification.

41. In document FCC 14-125, the Commission terminates or declines to extend waivers of certain mandatory minimum standards and determines that this action will not place any financial burden on iTRS or CTS providers, including small businesses, because the record shows that the providers are generally providing the features that had been waived. For example, the record shows that IP CTS providers are now able to offer three-way calling and speed dialing. Additionally, the record shows that all but two VRS providers are now able to offer one-line VCO and one-line HCO. Moreover, the record shows that the two VRS providers that are not currently capable of offering one-line VCO and one-line HCO plan to be able to do so when they each release the next version of their software. The Commission has extended for one year the waiver of this mandatory minimum standard to afford those two VRS providers sufficient time to implement their planned software release. Document FCC 14-125 also determines that waivers for mandatory minimum standards for VCO for CTS and IP CTS are unnecessary. However, because document FCC 14-125 concludes that CTS and IP CTS are a form of VCO, and, as a result, the mandatory minimum standards for the provision of various forms of VCO are subsumed in the provision of CTS and IP CTS, this action will not place any financial burden on IP CTS or CTS providers.

42. Finally, document FCC 14-125 eliminates the requirement that providers file annual reports for those mandatory minimum standards for which the Commission adopts exemptions or the waivers adopted in this Order and determines that this action will not place any financial burden on iTRS or CTS providers because providers benefit by being relieved from the necessity to file annual reports regarding their ability to provide services that are either inapplicable to their services or technologically infeasible.

43. Therefore, the Commission certifies that the requirements in document FCC 14-125 will not have a significant economic impact on a substantial number of small entities.

44. The Commission will send a copy of document FCC 14-125, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, Document FCC 14-125 and the Final Regulatory Flexibility Certification will be sent to the Chief Counsel for Advocacy of the SBA.

ORDERING CLAUSES

Pursuant to sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 225, document FCC 14-125 IS ADOPTED.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of document FCC 14-125, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

Part 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, unless otherwise noted.

2. Amend § 64.603 by revising the introductory text to read as follows:

§ 64.603 Provision of services.

Each common carrier providing telephone voice transmission services shall provide, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Interstate Spanish language relay service shall be provided. Speech-to-speech relay service also shall be provided, except that speech-to-speech relay service need not be provided by IP Relay providers, VRS providers, captioned telephone relay service providers, and IP CTS providers. In addition, each common carrier providing telephone voice transmission services shall provide access via the 711 dialing code to all relay services as a toll free call. A common carrier shall be considered to be in compliance with these regulations:

* * * * *

3. Amend § 64.604 by revising paragraphs (a)(3)(ii), (a)(3)(iv), (a)(3)(v), (a)(3)(vi), (b)(1), and (b)(3) and adding paragraph (c)(14) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(a) * * *

(3) * * *

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Providers of Internet-based TRS need not provide the same billing options (e.g., sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services if they allow for long distance calls to be placed using calling cards or credit cards or do not assess charges for long distance calling. Providers of Internet-based TRS need not allow for long distance calls to be placed using calling cards or credit cards if they do not assess charges for long distance calling.

* * * * *

(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls:

(A) Text-to-voice and voice-to-text;

(B) One-line VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; and

(C) One-line HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers are not required to provide one-line VCO and one-line HCO. IP Relay providers and VRS providers are not required to provide:

(1) VCO-to-TTY and VCO-to-VCO; and

(2) HCO-to-TTY and HCO-to-HCO. Captioned telephone service providers and IP CTS providers are not required to provide:

(i) Text-to-voice functionality; and

(ii) One-line HCO, two-line HCO, HCO-to-TTY, and HCO-to-HCO. IP CTS providers are not required to provide one-line VCO.

(vi) TRS providers are required to provide the following features:

(A) Call release functionality (only with respect to the provision of TTY-based relay service);

(B) Speed dialing functionality; and

(C) Three-way calling functionality.

* * * * *

(b) Technical standards—(1) ASCII and Baudot. TTY-based relay service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

* * * * *

(3) Equal access to interexchange carriers. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.

* * * * *

(c) * * *

(14) TRS calls requiring the use of multiple CAs. The following types of calls that require multiple CAs for their handling are compensable from the TRS Fund:

- (i) VCO-to-VCO calls between multiple captioned telephone relay service users, multiple IP CTS users, or captioned telephone relay service users and IP CTS users;
- (ii) Calls between captioned telephone relay service or IP CTS users and TTY service users; and
- (iii) Calls between captioned telephone relay service or IP CTS users and VRS users.

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